

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nina Mickens	Team: Team # 2	CCRB Case #: 200800982	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/22/1980 , Saturday, 01/19/2008 1:30 PM, Sunday, 02/24/2008	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 7/19/2009	EO SOL 7/19/2009	
Date/Time CV Reported Sat, 01/19/2008 1:55 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 01/19/2008 1:55 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT William Gallagher	01160	925327	PSA 6
2. LT Dennis Cullen	00000	900267	PSA 6
3. Officers			PSA 6

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Heriberto Vasquez	29410	937678	PSA 6

Officer(s)	Allegation	Investigator Recommendation
A.LT Dennis Cullen	Abuse: On January 19, 2008, LT Dennis Cullen entered and searched § 87(2)(b) § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.LT Dennis Cullen	Abuse: On January 19, 2008, LT Dennis Cullen drew his gun toward § 87(2)(b)	§ 87(2)(b)
C.SGT William Gallagher	Abuse: On January 19, 2008, SGT William Gallagher drew his gun toward § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: On February 24, 2008, officers entered § 87(2)(b) § 87(2)(b) in Manhattan.	§ 87(2)(b)

### Synopsis

§ 87(2)(b) contacted the CCRB via the call processing system on January 19, 2008, twenty minutes after her interaction with several police officers. § 87(2)(b) appeared at the CCRB on February 26, 2008 and provided a statement. § 87(2)(b) stated that on January 19, 2008, LT Dennis Cullen and several other officers entered and searched her apartment located at § 87(2)(b) in Manhattan (Allegations A). LT Cullen and Sgt William Gallagher were among several officers that had their guns drawn and pointed (Allegations B and C). The officers explained that they received a 911 call indicating that someone was shot inside of the apartment. § 87(2)(b) told the officers that no one had been shot or hurt. The officers looked in several of the bedrooms and made sure that everyone was uninjured and accounted for. The officers left the apartment soon after. On February 24, 2008, several officers responded to § 87(2)(b)'s apartment to investigate a 911 call regarding someone being shot inside. § 87(2)(b) told the officers that the call was false and it explained that a prank call had been made a month prior regarding the same allegations. The officers entered § 87(2)(b)'s apartment, made sure that everyone was fine and then left (Allegation D).

§ 87(2)(b), § 87(2)(g)

### Summary of Complaint

§ 87(2)(b) a § 87(2)(b) black female was interviewed at the CCRB on February 26, 2008. (Encl. 7a-f) § 87(2)(b) is 5'2" tall, with black hair and brown eyes. On January 19, 2008, at approximately 1:30PM, § 87(2)(b) was inside the living room of her apartment located at § 87(2)(b) in Manhattan. § 87(2)(b) was barefoot and dressed in a bathrobe when she noticed movement behind her front door followed by a "scratchy noise" which alerted her of a presence outside her apartment. She initially thought a burglar was outside and did not hear a knock on her door. There are three bedrooms inside the apartment. § 87(2)(b)'s daughter § 87(2)(b)'s son, § 87(2)(b)'s boyfriend, § 87(2)(b) and § 87(2)(b)'s § 87(2)(b)-old granddaughter, were each inside their respective bedrooms. § 87(2)(b) and § 87(2)(b) were inside their own bedrooms while § 87(2)(b) was inside § 87(2)(b)'s bedroom. Everyone exited their bedroom when they heard the noise from outside the apartment.

§ 87(2)(b) walked over to the door and asked who was there. A voice said, "Police. Open the door." § 87(2)(b) said okay, opened the door and asked what was going on. Three to four officers were outside § 87(2)(b)'s front door standing next to one another with their guns pointed toward § 87(2)(b)'s face. § 87(2)(b) identified Lieutenant Dennis Cullen by reading his name. LT Cullen was described as a white male, 6'0" tall and wearing in a NYPD jacket and jeans. He was one of the officers who had his gun pointed. § 87(2)(b) also described PO1, an unidentified Hispanic female officer that was 5'2" tall, and PO2 and PO3, two unidentified Hispanic males. PO4 was described as a Hispanic or white male, approximately 160-180 pounds and slim build. All of the officers were in uniform.

§ 87(2)(b) asked what was going on and an unidentified officer said, "We'll tell you in a minute ma'am. Just step out of your apartment." § 87(2)(b) did not observe which officer made the request. At some point, § 87(2)(b) stepped out of the apartment and into the neighboring hallway where she remained for approximately 1-2 minutes. Several officers ran into § 87(2)(b)'s apartment while other officers remained outside. § 87(2)(b) could not recall the exact number of officers that were present. While outside the apartment, § 87(2)(b) asked for a third time what was going on. PO1, who remained outside the apartment, explained that the police received a call that a man shot his wife and children in the apartment. § 87(2)(b) asked how that could have happened and asked who made the telephone call. The officers did not know who had made the call. Officers searched § 87(2)(b)'s apartment while she remained outside in the hallway. § 87(2)(b) described the search as officers walking through her

apartment. § 87(2)(b) could not observe specifically where the officers walked, however, she recalled an officer walking over to § 87(2)(b)'s bedroom. § 87(2)(b) was not permitted to enter the apartment until the search was concluded which was approximated as one minute.

As § 87(2)(b) remained in the hallway, § 87(2)(b) peeked out from her bedroom followed by officers instructing everyone to exit the bedroom. § 87(2)(b) had recently finished taking a shower when the officers arrived and had a towel wrapped around her body. § 87(2)(b) and § 87(2)(b) exited their bedrooms but § 87(2)(b) refused to leave her room and explained that she could not leave her baby alone on the bed. Officers asked § 87(2)(b) to exit the bedroom and directed all of the civilians to remain in the living room so that they may provide everyone with an explanation. As the officers led § 87(2)(b) and § 87(2)(b) from their bedrooms and into the living room, § 87(2)(b) returned to the inside of the apartment. The officers explained that they received a call for police assistance. § 87(2)(b) was upset because she already knew the reason for the officers' presence, based on the information which was provided to her by PO1. PO4 let everyone hear the call over the radio. § 87(2)(b) and § 87(2)(b) argued that there was not "a crime scene" in the apartment and that the situation had nothing to do with them. § 87(2)(b) asked the officers to leave the apartment several times, however, the officers remained present.

LT Cullen continued to ask § 87(2)(b) for information about the domestic incident and if there were "gun shots" heard in the vicinity of the apartment building. § 87(2)(b) was unable to provide any information and had expressed this to LT Cullen. § 87(2)(b) and § 87(2)(b) argued with LT Cullen. He specifically asked § 87(2)(b) about the domestic incident and then asked all the civilians present if they had any information to provide. During this time, § 87(2)(b) stood in the kitchen, which is attached to the living room, and became annoyed with LT Cullen's persistent questioning of his mother. An officer said, "You people need to calm down." § 87(2)(b) reacted by saying, "What do you mean by you people. You know what, you really need to leave. As a matter of fact, give me badge, names, and numbers." § 87(2)(b) did not ask any specific officer for his or her badge number. Several officers had their backs turned from her direction and were leaving the apartment. LT Cullen was still present inside the apartment. LT Cullen turned his badge around for § 87(2)(b) and said that he did not have a badge number. § 87(2)(b) saw LT Cullen's name on his badge. § 87(2)(b) asked, Sgt William Gallagher to provide his name. § 87(2)(b) first observed Sgt Gallagher when she was asking officers for their names and badge numbers. She had not noticed him earlier in the incident. Sgt Gallagher wrote his name on a piece of paper and provided it to § 87(2)(b). In addition, § 87(2)(b) observed Sgt Gallagher's badge number and wrote it down. She provided the number "925327" during her CCRB interview.

An unidentified officer provided § 87(2)(b) with the complaint number corresponding to the telephone call of the domestic incident. § 87(2)(b) did not have the complaint number during her CCRB interview. § 87(2)(b) was unable to obtain the additional officers' names because they had exited her apartment.

*February 24, 2008*

Unidentified officers responded to § 87(2)(b)'s apartment on February 24, 2008, at approximately 4:30PM. § 87(2)(b) was sleeping in her bedroom when her daughter, § 87(2)(b) knocked on § 87(2)(b)'s bedroom door to inform her that the police officers were at the front door. § 87(2)(b) told § 87(2)(b) that she did not know why the officers were there. § 87(2)(b) walked to the front door where she could hear knocking. § 87(2)(b) told the officers to wait for her to put on her bathrobe. § 87(2)(b)'s § 87(2)(b) old granddaughter, § 87(2)(b) § 87(2)(b) § 87(2)(b) goddaughter, § 87(2)(b) § 87(2)(b) old granddaughter, § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b)-old granddaughter, were playing inside the apartment. § 87(2)(b)'s boyfriend, § 87(2)(b) § 87(2)(b) was also inside of the apartment.

§ 87(2)(b) opened her front door and observed several uniformed officers. She described PO5, a white or Hispanic male who was 5'4" tall. Three unidentified males and 2 unidentified female officers were also present. § 87(2)(b) was not certain of the exact number of officers that were outside of her apartment but these officers were not the same officers that came to her apartment on January 19, 2008. PO5 informed § 87(2)(b) that they received a complaint that a woman had shot her boyfriend. § 87(2)(b) said that she understood that the officers had to respond to her apartment but stated that everyone

was okay and no one was shot. § 87(2)(b) asked the officers if they were sure that they had the right apartment. PO5 said yes and offered to let § 87(2)(b) hear the call they had received on the radio. § 87(2)(b) declined and explained that she heard the dispatcher the last time, referring to the incident that occurred on January 19, 2008. An unidentified officer asked § 87(2)(b) "Do you mind if we come in and take a look?" § 87(2)(b) told the officers that they were not permitted in her apartment. An unidentified officer responded, "There's a need for us to come in. We have to come in." Officers entered the apartment but § 87(2)(b) did not know the specific number and/or specific officers who entered. Additional officers remained outside the apartment. § 87(2)(b) asked the officers whether they needed a warrant or papers to enter and the officers said that they did not. Officers attempted to explain the situation to § 87(2)(b) who expressed that she did not want an explanation. § 87(2)(b) observed one officer's name and badge that entered her apartment and identified him as "Officer Vasquez badge number 29410." § 87(2)(b) did not know if she actually conversed with PO Vasquez. § 87(2)(b) did not recall any officers searching her apartment.

After the first group of officers left, an unknown number of female officers arrived and explained that they received a complaint of a domestic incident at her apartment. The officers listened to § 87(2)(b) explain that officers responded to her apartment prior to their arrival and that the complaint had nothing to do with her household. These officers did not enter or search § 87(2)(b)'s apartment. § 87(2)(b) explained that she wanted the officers to find out where the calls were coming from and have them stopped. § 87(2)(b) was referring to the domestic complaints, specifically the telephone calls the officers had received which caused them to respond to her apartment. § 87(2)(b) stated that she would not be able to identify any of the officers that came to her apartment on January 19, 2008 or February 24, 2008 in a photo array except for LT Cullen.

### **Results of Investigation**

#### **Civilians Not Interviewed**

The investigation determined that it was not necessary to interview the occupants of § 87(2)(b)'s apartment who were present on January 19, 2008 and February 24, 2008. § 87(2)(b) only alleged that officers entered/searched her apartment and had their guns drawn. Witness statements would not have changed the recommended dispositions.

#### **Officer Identification**

§ 87(2)(b) provided the name and shield number of LT Dennis Cullen and Sgt William Gallagher and indicated that he entered the apartment on January 19, 2008. § 87(2)(b) provided the name and shield number of PO Heriberto Vasquez and stated that he entered her apartment.

#### **Officer Statements**

##### *LT Dennis Cullen*

Lieutenant Dennis Cullen, a § 87(2)(b) old white male was interviewed at the CCRB on April 15, 2008. (Encl. 8a-c) On January 19, 2008, LT Dennis Cullen worked a tour of 5:45AM to 2:30PM and he was the Special Operations Lieutenant for PSA 6. LT Cullen was driving a gold Crown Victoria and dressed in plainclothes. He did not recall who he worked with on January 19, 2008. LT Cullen stated that he was not present at § 87(2)(b) on February 24, 2008.

On January 19, 2008 at approximately 12:59PM, LT Cullen was at the PSA 6 stationhouse when he heard communications broadcast radio code 10-52, which is as dispute, at § 87(2)(b) in Manhattan. Soon after this, the call was upgraded to radio code 10-34, an assault in progress that involved a firearm. LT Cullen answered the radio call, stating over the air, that he would be responding to the location. LT Cullen called the dispatcher who informed him that she received a second call that a male just shot his children and was going to shoot himself inside the apartment. LT Cullen stated that his suspicion regarding the legitimacy of the call was escalated because the 911 operator received multiple calls. LT Cullen informed unidentified officers and Sergeant William Gallagher of the radio call. LT Cullen stated that he had most likely responded alone to § 87(2)(b) however, given the severity of the 911 call 7-8 other officers arrived on the scene at generally the same time.

LT Cullen knocked on the front door of the residence and verbally identified himself as “police.” No one responded, therefore, for tactical safety LT Cullen unscrewed the peephole on the front door and hit the eye piece into the apartment. LT Cullen was unable to get a sufficient look inside the apartment. As he was about to call ESU for assistance, a small black female dressed in a bathrobe or pajamas, identified as § 87(2)(b) unlocked and opened the front door. He asked § 87(2)(b) to identify who was inside the apartment. § 87(2)(b) yelled about the banging on the front door. LT Cullen observed that § 87(2)(b) was unarmed and therefore not a threat so he pulled her outside the apartment. LT Cullen, Sgt Gallagher, and several unidentified officers entered the apartment. LT Cullen encountered two black males. LT Cullen described a 17-18 year-old, 5’9” tall, 160 pounds and dressed in a t-shirt and pajama pants. This male was identified through investigation as § 87(2)(b). Lt Cullen described the second male as older and in the hallway of the apartment. This male was identified through the investigation as § 87(2)(b). LT Cullen pointed his gun toward the two males. LT Cullen stated that the additional officers remained behind him and he would assume that they would have their guns drawn because of the severity of the 911 call.

Both males were frisked to ensure that they did not have any weapons. § 87(2)(b) was patted down by LT Cullen. LT Cullen did not see who frisked § 87(2)(b) and § 87(2)(b) were compliant with being frisked. Once it was confirmed that the males were secure, they were instructed to remain inside the living room. LT Cullen and unidentified officers made a cursory check of all rooms in the apartment. At any given time there could have been approximately 6-8 officers in the apartment, systematically checking the rooms to ensure that no one was hiding or injured. LT Cullen recalled encountering a female and a baby in one of the back rooms. The investigation identified the female as § 87(2)(b). The officers ensured that all of the civilians were not injured and that no one was shot. Everyone was instructed to go into the living room. LT Cullen stated that given that he was the ranking officer, he provided an explanation for the entry. He explained to § 87(2)(b) and the civilians present that multiple calls were received regarding an assault with a firearm.

LT Cullen emphasized that the job was taken very seriously, especially because there were multiple 911 calls placed about the incident and stated that “rarely are there bogus jobs when multiple calls are placed.” § 87(2)(b) was described as extremely irate and uncooperative by expressing an interdiction for an explanation. LT Cullen or Sgt Gallagher called central command to have the 911 call played for § 87(2)(b) and her family. § 87(2)(b) said something to the effect of “I know you’re trying to help but you should not have come here and you should not have had your guns drawn.” § 87(2)(b) was receptive to LT Cullen’s explanation by saying several times that he understood. LT Cullen stated that despite § 87(2)(b)’s “verbal resistance” to the officers’ presence, the civilians were compliant with officers’ instructions/authority on scene. LT Cullen did not know if § 87(2)(b) requested that other officers identify themselves. LT Cullen was on the scene for approximately 5-7 minutes and left once it was determined that the civilians were secure and uninjured.

LT Cullen stated that there was an open case with the 32<sup>nd</sup> Squad in regards to the 911 calls. The case status is unknown. LT Cullen added that the calls were made from a deactivated cell phone which has posed difficulty in identifying the anonymous caller(s).

#### *Sergeant William Gallagher*

Sergeant William Gallagher, a § 87(2)(b)-old white male was interviewed at the CCRB on April 15, 2008. (Encl. 10a-b) On January 19, 2008, Sgt Gallagher worked a tour of 6:55AM-3:52PM and his assignment was Patrol Supervisor for PSA6. He was dressed in uniform and assigned to RMP #9248. At the time of the interview, Sgt Gallagher did not have his memo book and was unable to identify his assigned partner on January 19, 2008. Sgt Gallagher stated that he was not present at § 87(2)(b) Apt. 1D, in Manhattan on February 24, 2008.

Sgt Gallagher’s statement was consistent with LT Cullen’s statement except for the following. On January 19, 2008 at approximately 1:30 PM, Sgt Gallagher responded to 911 calls indicating shots were fired, at § 87(2)(b) in Manhattan. The first call was placed outside the apartment and reported

a male threatening to shoot his wife and children if the police were called. The second call was made by an anonymous female who reported that the male had just shot himself and his children. When Sgt Gallagher responded to the apartment, multiple units were on the scene, some of which were already inside the apartment and some of which were either entering or leaving the apartment. Sgt Gallagher did not recall whether the front door of the apartment was open. Most of the officers were dressed in plainclothes and some were in uniform. Sgt Gallagher had parked his car blocks away from the apartment because of the unavailability of parking due to the large number of police vehicles already on the scene.

Sgt Gallagher removed his gun from the holster outside the apartment and pointed it toward the ground. Upon entering the apartment, Sgt Gallagher continued to point his gun toward the ground. Sgt Gallagher immediately returned his gun to its holster once entering the apartment because it was evident, based on his own observation, that no one was shot and that everything at that point was calm. Sgt Gallagher did not see any additional officers with their guns out of their holsters. Upon entering the apartment, a black female, identified through the investigation as § 87(2)(b) was lying on the couch. There was also a teenage black male, identified as § 87(2)(b) in the apartment. Sgt Gallagher did not recall an additional male or a baby being present. Sgt Gallagher approached § 87(2)(b) and identified himself as the Patrol Supervisor. Sgt Gallagher provided an explanation for the police response and stated that multiple 911 calls were received regarding an assault with a firearm. Sgt Gallagher called central command to request a 10-5, a police radio code requesting for the recorded 911 calls to be played back on the police radio. Sgt Gallagher made the request approximately 2-3 times so that all the civilians in the apartment had the opportunity to listen to the calls. Sgt Gallagher heard an unidentified officer ask § 87(2)(b) if she knew of someone who would want to play a prank on her. According to Sgt Gallagher, § 87(2)(b)'s demeanor changed because following the comment she looked at § 87(2)(b) and became angry. § 87(2)(b) requested Sgt Gallagher's badge number which he wrote on a piece of paper. Sgt Gallagher stated that § 87(2)(b) may have asked for LT Cullen's badge number but he did not recall if requests were made for additional officers to provide their badge numbers.

Sgt Gallagher stated that he remained in the living room during the entire interaction. He did not observe any officers present anywhere else inside the apartment besides the living room. Sgt Gallagher did not recall the length of time he was on the scene.

#### *Police Officer Heriberto Vasquez*

Police Officer Heriberto Vasquez, a § 87(2)(b) ld Hispanic male was interviewed on April 24, 2008. (Encl. 12a-b) On January 19, 2008, PO Vasquez was on his regular day off. On February 24, 2008, PO Vasquez was dressed in uniform and worked a tour of 2:00PM to 10:35PM. He was assigned to the conditions unit in the 32<sup>nd</sup> Precinct. PO Vasquez did not recall his assigned partner and stated that he was most likely assigned to an unmarked car. PO Vasquez read memo book entries for February 24, 2008 verbatim for the record as: "1636 hours, Responded 34 [assault] at § 87(2)(b) 1645 hours: 90 X 98."

On February 24, 2008 at approximately 4:36 PM, PO Vasquez responded to § 87(2)(b) in Manhattan, following a 911 call reporting an assault. Additional officers responded to the call but PO Vasquez did not recall the names of the officers that were present. PO Vasquez stated that the incident may have involved "somebody being held against their will in the back room." PO Vasquez knocked on the front door. A female, identified through the investigation as § 87(2)(b) opened the front door. PO Vasquez explained that he was responding to a 911 call and asked if anyone was hurt inside the apartment. PO Vasquez recalled there being approximately 4-5 unidentified civilians inside the apartment who appeared to be normal. The civilians told PO Vasquez that they were alright. § 87(2)(b) told PO Vasquez that "the call had happened before" or that "this has happened before" soon after she opened the door. PO Vasquez asked § 87(2)(b) if he could quickly enter the apartment to look around to ensure that everything was alright. PO Vasquez was uncertain if § 87(2)(b) permitted him to enter the apartment and added that he was going to look inside the apartment nevertheless given that the call was an 'emergency'. PO Vasquez was inside the apartment for approximately 10 seconds and confirmed that the civilians were safe and not injured. PO Vasquez quickly checked the bedrooms because the 911 call reported "someone being held against their will and being beat up in the back."

### **Officers Not Interviewed**

LT Cullen was the highest ranking officer on the scene on January 19, 2008 and he explained the reason why officers were inside of the apartment. Additional officers were not interviewed because the only allegations are entry/search. Additional statements would have no affect on the recommended disposition. PO Vasquez entered § 87(2)(b)'s home on February 24, 2008. Though the roll call and Sprint indicate that a sergeant was also on the scene, it was not necessary to identify and interview the sergeant. PO Vasquez and several officers arrived simultaneously and PO Vasquez was the officer that primarily spoke to § 87(2)(b). The evidence gathered proves that the officers were justified in entering § 87(2)(b)'s apartment. Therefore additional officer statements will not change the recommended disposition.

### **Police Documents**

#### ***SPRINTS***

SPRINT Job# § 87(2)(b) from January 19, 2008 indicates that an unidentified female caller called 911 at 12:59PM and stated that her husband threatened to kill her and her children if she called 911. (Encl. 13a-c) The caller further stated that she was calling from outside and was going back inside of § 87(2)(b). At 1:05PM, female caller states that she is still waiting. A call back number and name was not provided by the caller and was unable to be obtained. At 1:19PM, a female caller stated that her husband shot himself and the children. No further information was given and female caller hung up. Caller said that she called previously and officers never responded. An ambulance, Sector D from the 32<sup>nd</sup> Precinct and sector #9764 from PSA6 arrived on the scene at 1:22PM. A Sergeant was notified but the SPRINT does not indicate when the sergeant arrived on the scene. Sector D and sector 9764 gave a final disposition of 10-90X, unfounded report of domestic violence, at 1:34PM. The Sergeant gave the same disposition at 1:34PM.

SPRINT Job# § 87(2)(b) from February 24, 2008 indicates that an anonymous female caller called 911 at 4:31PM and stated that she shot her husband inside of § 87(2)(b). (Encl. 14a-b) The job was labeled as an assault in progress. Sector 9721, 9625, 9626, and 9764 from PSA6 responded to the call. Sector 9721 arrived on the scene at 4:32PM, Sector 9625 arrived at 4:33PM, and Sector 9764 arrived at 4:38PM. At 4:39PM Housing Sergeant indicates that the job was based on a prank call and no one was shot in the apartment.

#### ***Roll Call***

PSA6 Tour 2 Roll Call for January 19, 2008 indicated that Sgt William Gallagher worked a tour of 6:55AM-3:32PM and his assignment was patrol supervisor. (Encl. 16a-h) He was assigned to car #9248 in which PO Scott Pietropaolo was his operator. PO Peterson and PO Gonzalez were assigned to car # 9764 and sector D. LT Cullen is not listed on the Tour 2 roll call or the Tour 1 roll call for January 19, 2008. (Encl. 15a-f)

PSA6 Tour 3 Roll Call for February 24, 2008 indicated that SGT Nadia Morant worked a tour of 8:55AM-3:52PM. (Encl. 18a-h) Her assignment was platoon supervisor #1 and she was assigned to car # 9764 in which PO Yu Ng was the operator. PO Tonya Brooks and PO Chantel Hook were assigned to car# 9721. Both officers worked a tour of 3:00PM-11:35PM. PO Heriberto Vazquez and PO Frederico Vasquez worked a tour of 3:00PM-10:35PM and were assigned to the Anti-Crime unit for the 32 Precinct. Both officers were assigned to car# 9625. PO Pryce and PO Branch worked a tour of 3:00PM-10:35PM and were assigned to the Conditions Unit. Both officers were assigned to car # 9626.

#### ***Memo book***

LT Cullen was unable to locate his memo book. Therefore it was not added to the case file. (Encl. 23d)

### **Civilian Criminal History**

A search in BADS was conducted by name and § 87(2)(b) had no arrests on record in New York City.

### **Subject Officer's CCRB History**

Lieutenant Dennis Cullen has been employed by the NYPD for 16 years. (Encl. 3a-b) In case # 9403289 allegations of physical force and discourtesy were substantiated. The board did not make any

recommendations regarding a penalty. Sergeant William Gallagher has been employed by the NYPD for 8 years and has had no substantiated allegations. (Encl. 4)

### **Civilian Witness CCRB History**

This is the first time that § 87(2)(b) has filed a complaint with the CCRB.

### **Conclusions and Recommendations**

### **Subject Officer Identification**

§ 87(2)(b) provided the name of LT Cullen and Sgt Gallagher and stated that both officers entered her apartment on January 19, 2008. § 87(2)(b) went on to say that LT Cullen had his gun pointed at her. LT Cullen was the highest ranking officer in the apartment and confirmed his involvement in the incident. Therefore allegations A and B are pleaded against him. § 87(2)(b) alleged that several officers had their guns pointed at her but she could not identify them. Sgt Gallagher was interviewed and admitted that he had his gun drawn. Therefore allegation C is pleaded against him. It is clear that several officers entered § 87(2)(b)'s apartment on February 24, 2008 in response to a call for help. § 87(2)(g). Therefore allegation D is pleaded against officers.

### **Undisputed Facts**

It is undisputed that LT Cullen entered § 87(2)(b)'s apartment located at § 87(2)(b) on January 19, 2008. Officers also entered § 87(2)(b)'s apartment on February 24, 2008. On each date, the officers entered § 87(2)(b)'s apartment under the pretense that someone had been shot. LT Cullen was among several officers that had their guns drawn and pointed as they entered the apartment on January 19, 2008. On the same date, Sgt Gallagher had his gun drawn as he entered the apartment.

### **Disputed Facts**

There are no disputed facts in regards to the allegations.

### **Allegations not being pleaded**

§ 87(2)(b) alleged that she asked several officers for their names and shield numbers as they exited her apartment. § 87(2)(b) admitted that she had not asked a specific officer for his/her name and shield number and could not identify the officers that were walking out of the apartment. Therefore this allegation is not being pleaded.

### **Allegation A: On January 19, 2008, LT Dennis Cullen entered and searched § 87(2)(b)**

**§ 87(2)(b) in Manhattan.**

### **Allegation B: On January 19, 2008, LT Dennis Cullen drew his gun toward § 87(2)(b)**

### **Allegation C: On January 19, 2008, SGT William Gallagher drew his gun toward § 87(2)(b)**

### **Allegation D: On February 24, 2008, officers entered § 87(2)(b) § 87(2)(b) in Manhattan.**

§ 87(2)(b) stated that LT Dennis Cullen and several other officers entered and searched her apartment on January 19, 2008. The officers responded to a 911 call indicating that a male said that he would shoot his wife and kids if the wife called the police. A second 911 call was received and it indicated that the male had shot himself and his children. On February 24, 2008, a different set of officers entered § 87(2)(b)'s apartment. These officers responded to a 911 call indicating that a woman had shot her husband.

According to Kamins's New York Search and Seizure, "under the emergency doctrine, a police officer can enter premises without a warrant to protect individuals in distress, to assist victims of crimes that have just occurred, or to investigate suspicious signs of impending danger. This exigency, therefore, is based on the officer's obligations to protect life and property... (Encl. 1a-c) "The Court of Appeals has defined the guidelines for the application of the emergency doctrine. In *People v. Mitchell* (1976), the Court held that there are three basic requirements: 1) the police must have reasonable grounds to believe that there is an emergency at hand, and that there is an immediate need for their assistance for the protection of life and property, 2) the search must not primarily be motivated by an intent to arrest and seize evidence, and 3)



there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or property to be searched.

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
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Investigator:  
Nina S. Mickens

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: